

Parliament as a Gendered Workplace: Introduction to this Special Issue

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In March 2021, there were mass demonstrations around Australia, protesting over the unsafe work conditions for women in parliamentary workplaces. Two developments provided the background to these protests. The first was the development over the past 20 years of new international standards for Parliament as a gendered workplace. Australia had signed up to these standards, for example at Inter-Parliamentary Union assemblies, but done little to implement them. The second development was the international #MeToo movement, which encouraged many women, including those in parliamentary workplaces, to speak out for the first time about workplace experiences, including sexual harassment and sexual assault. These two developments came together when Brittany Higgins, a former Liberal staffer in the Australian Parliament, spoke out in February 2021 about her experience of being allegedly raped in a ministerial office two years before and how this had been treated as a 'political problem' first and foremost. The bravery of her testimony prompted others also to speak. It triggered widespread anger that one of 'the most heavily guarded buildings in Australia' could be so unsafe for women who worked in it.

This special issue on Parliament as a gendered workplace had its genesis before the storm broke in 2021 and was a response to initial revelations in November 2020 about a toxic and sexist culture in ministerial offices ('Inside the Canberra Bubble', ABC Television). We made a successful application to the Australian Political Studies Association's workshop program in 2020 and the Global Institute for Women and Leadership (ANU) agreed to be a co-sponsor. The School of Politics and International

Relations at the ANU provided the administrative support and event co-ordination for the workshop held in July 2021. Due to the COVID pandemic, the workshop was in a hybrid format, with international and interstate participants presenting through video and Zoom. A number of the papers have been selected for this special issue, while others provided evidence that was drawn on for the workshop submission to the Independent Review into Commonwealth Parliamentary Workplaces (the Jenkins Review).¹

This Introductory article will begin by setting out the context of the workshop, its aims and how it went about achieving them, including the mix of practitioners and academic experts. It will then explain the genesis of the Code of Conduct adopted by the Workshop and the process used for arriving at it. It will then briefly introduce the themes of the papers in the special issue before making some concluding remarks on the trajectory of parliamentary reform in Australia.

THE POLITICAL CONTEXT

In March 2021, a perfect storm broke over the issue of women's safety in Parliament. Thousands demonstrated outside the Australian Parliament and around Australia. While those outside labelled Parliament a 'crime scene', inside the House of Representatives crossbenchers held up placards saying 'enough is enough'. This was not the first time in Australian political history that there had been revelations of sexism in the Australian Parliament. In 2012, Prime Minister Julia Gillard's 'sexism and misogyny speech' went viral around the world. In the intervening period women politicians had become more resolute in revealing their experience of the parliamentary workplace and a number, including Senator Penny Wong, Opposition Leader in the Senate, expressed regret that they had not publicly recognised and condemned such abuse much earlier: 'If I had my time again, I'd be dealing with it very differently. ... I think we should have called it out earlier'.²

¹ Australian Political Studies Association and Global Institute for Women's Leadership, Submission to the Independent Inquiry into Commonwealth Parliamentary Workplaces, 2021, published at: <https://humanrights.gov.au/have-your-say/independent-review-commonwealth-parliamentary-workplaces>.

² Senator Penny Wong, in 'Ms Represented', ABC Television, 2021.

In 2021, the Morrison Government responded to the perfect storm with a raft of internal inquiries, including a review by Stephanie Foster, Deputy Secretary of the Department of Prime Minister and Cabinet of the handling of serious incidents in the parliamentary workplace. Eventually, under increasing pressure, the Prime Minister also commissioned an Independent Inquiry into Commonwealth Parliamentary Workplaces to be conducted by the Sex Discrimination Commissioner, Kate Jenkins. Once assured of confidentiality, the Jenkins Inquiry was flooded with submissions by those who worked, or had worked, in Parliament. Legislation giving similar protection to that provided for private sessions of the Royal Commission into Institutional Responses to Child Sexual Abuse provided an exemption for Freedom of Information requests relating to submissions.

Some of those responsible for private submissions to the Jenkins Review also presented at our workshop, including the author of the submission from the Elizabeth Reid Network, based on responses to their workplace experience survey. This Network, which has some 1400 members, was established in 2016 to ensure that Labor women staffers enjoyed the same career opportunities as their male colleagues. It offers an annual scholarship for female staffers to undertake activities relating to career development, including travel and training. As well as recommendations concerning independent complaint handling, training in office management and a code of conduct, the Network's recommendations interestingly included the need for a protocol on alcohol use. Many international reports mention the prevalence of alcohol in after-hours political work as contributing to the blurring of professional and personal boundaries and increasing the risk of misbehaviour.³ This is also a finding of the research by Maria Maley included in this special issue.

The workshop aimed to make Parliament a safer and more inclusive workplace by developing a model code of conduct. Former and current politicians, political staffers, national and international academic experts and key stakeholders were brought together to share insights and consider how to address issues of bullying, intimidation and harassment in Parliament. Academics offered a scholarly perspective on the impact of gendered norms and culture as an obstacle to change. Susan Harris Rimmer,

³ Marian Sawyer, 'Dealing with Toxic Parliaments: Lessons from Elsewhere', *Australasian Parliamentary Review* 36(1) 2021, p. 12.

for example, examined pathways to a safer political workplace, such as legal and cultural reforms, but noted that success depended on the ability of a complaint-handling body to deal with historical allegations and injustices. Kim Rubenstein took aim at the Australian Constitution, asking whether it is a barrier to a more inclusive Parliament and finding that in fact important reforms such as job-sharing by political candidates could be achieved simply by amendment of the *Commonwealth Electoral Act*.

Politicians participating in the workshop came from a range of political backgrounds. Many had already been engaged in initiatives to promote parliamentary reform, including Independent Dr Helen Haines MP and Greens Senator Larissa Waters, whose 2019 National Integrity (Parliamentary Standards) Bill would have established a code of conduct for parliamentarians and staff and a Parliamentary Standards Commissioner.⁴ The Hon. Kate Ellis drew on her own experience as well as interviews when describing the undermining of women politicians through the weaponising of sexual gossip and slut shaming,⁵ while the Hon. Sharman Stone argued that Parliament would remain an unsafe place for women as long as a gendered hierarchy was in place. ACT Liberal Leader Elizabeth Lee and Labor's Anne Aly MP talked about the intersectional challenges combining gender and racial prejudice that were part of their experience of politics.

As well as drawing on the workplace experience of both staffers and politicians in Australia, our workshop drew on the experience of other parliamentary jurisdictions including Catalonia, Canada, New Zealand, Sweden and the United Kingdom. This included overseas experience in the development of codes of conduct addressing gendered harms in the workplace as well as longer standing integrity and financial probity issues—the subject of many earlier codes of conduct.

DEVELOPING A CODE OF CONDUCT

A key objective of the two-day workshop was to prepare a submission to the Jenkins Inquiry—including a proposed code of conduct—based on the collective scholarship of

⁴ In 2020, Dr Haines also introduced a Commonwealth Parliamentary Standards Bill to create a statutory code of conduct for parliamentarians and their staff, focused on integrity issues.

⁵ Kate Ellis, *Sex, Lies and Question Time*. Melbourne: Hardie Grant, 2021.

participants and the experience of other parliamentary jurisdictions. The Commonwealth has a non-statutory code of conduct for Ministers (overseen by the Prime Minister) but no code of conduct for parliamentarians. Proposals have been made since the 1970s for a code of conduct applying to all parliamentarians as well as Ministers, with a breach of the code to constitute a breach of parliamentary privilege. The development of a code of conduct was included in the agreements entered into by the Gillard Government with Independents and the Australian Greens in 2010 but there was resistance.⁶ In 2017, Coalition Senators dissented from a Senate Committee recommendation for a Parliamentary Code of Multicultural Ethics, rejecting in principle any code of conduct: ‘Coalition Senators oppose the recommendation that democratically elected Members of Parliament should be bound by codes of ethics developed by previous parliaments’.⁷

It is notable that the ministerial code at the Commonwealth level, like most codes of conduct adopted so far in Australia, has been largely concerned with integrity matters such as conflict of interest and financial probity. While employment of relatives is included as an integrity issue in the Commonwealth ministerial code, the only mention of broader issues of office management is the prohibition of Ministers having sexual relations with their staff—the so-called ‘bonk ban’ introduced by Prime Minister Malcolm Turnbull in 2018. Hence a key objective of the workshop was to develop a code of conduct to address the gendered harms that had been identified in the parliamentary workplace, from bullying, intimidation, harassment and sexual harassment, up to sexual assault. As these gendered harms have been identified and addressed in the codes of conduct adopted in a number of overseas parliaments, examination of the promises and pitfalls involved was an important part of the workshop.

In considering the varied experiences of other parliaments, workshop participants were reminded of a key distinction between parliamentary reforms resulting from

⁶ For an excellent overview of Federal, State and Territory codes of conduct in Australia, including current proposals, see Deirdre McKeown and Michael Sloane, *Parliamentary Codes of Conduct: A Review of Recent Developments*, Parliamentary, Parliamentary Library Research Paper, Parliament of Australia, 2021.

⁷ Senate Select Committee on Strengthening Multiculturalism, Final Report, 2017. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Strengthening_Multiculturalism/Multiculturalism/Final_report

'scandals' (related to allegations of either sexual or financial misconduct), as opposed to the gender sensitive reviews recommended by the Inter-Parliamentary Union. The New Zealand code of conduct, for example, was prompted by the findings of the Francis Review, which made 85 recommendations. While allegations of misconduct also arose in the United Kingdom, that Parliament had previously undertaken its own gender sensitive audit (preceded by Professor Sarah Childs' independent review and recommendations), establishing a more inclusive approach to parliamentary reform.

To facilitate contributions to the submission from all workshop participants (both in person and online), a digital bulletin board (also known as a 'padlet') was created. A series of questions structured padlet discussions: should there be a mission statement and what should it look like; how should the grievance mechanism be established, who should sit on it, and how should it hear, and address, complaints; what should the sanctions be for code breaches; who/what should have responsibility for enforcing the code; and how could code enforcement be kept transparent and accountable? Participants were regularly encouraged to capture key lessons and personal reflections from the presentations and discussions on the padlet. Over two days, 17 contributors wrote a total of 44 responses to these questions.

These responses then informed the discussions of a smaller group of workshop participants interested in preparing the submission and code of conduct. With the support of a facilitator, the group decided that a short code of conduct (of no more than a page) should be contextualised by a set of values, as well as expectations of, and reasons for, change. Nominated values revolved around concepts of professionalism and integrity; accountability, culpability and power; cultural safety and space; and active citizenship and service. There was unanimous agreement on the need for a code of conduct to apply to all those working in parliamentary workplaces and an independent body to oversee implementation of the code and to handle complaints, as well as mandatory workplace training.

A drafting committee was then entrusted with crafting the submission text, later endorsed by 21 workshop participants. The proposed code of conduct is presented in Box 1.

Box 1. Proposed Code of Conduct for the Parliament of Australia

The Parliament of Australia should be a model workplace, where everybody is treated with respect and courtesy.

Whether you are a visitor or working in Parliament House or elsewhere, there are clear guidelines on how you should be treated or how you should treat others:

- Ensure Parliament meets the highest standards of integrity, courtesy and mutual respect
- Make Parliament a safe and inclusive workplace where diversity is valued
- Show that bullying and harassment, including sexual harassment, are unacceptable
- Speak up about any unacceptable behaviour
- Act professionally towards others
- Participate in training on harassment prevention and office management
- Understand that unacceptable behaviour will be dealt with seriously and independently, with effective sanctions

EXPLAINING THE PROPOSED CODE OF CONDUCT

In drafting the proposed code of conduct, it was important to consider the principles to be upheld in the parliamentary workplace, so that political offices were not regarded as private fiefdoms but rather as an important part of the machinery of representative democracy. As part of democratic machinery, political offices need to be managed in accordance with democratic values of diversity and inclusion and prevent conduct detrimental to gender equality such as sexual harassment. These values need to apply to all of those working in or visiting parliamentary precincts and to be spelled out, as they have been in the codes of conduct of comparable parliaments.

All reviews on how to address gendered harms occurring in the parliamentary workplace have also recognised the importance of introducing mandatory training in harassment prevention and office management. Many elected representatives have

no prior experience in office management and yet are slow to undertake training offered on a voluntary basis. Hence the importance of including participation in training as an element of the code of conduct, as has been done by the European Parliament.

The importance of an independent body to handle complaints has been recognised in all recent reviews of parliamentary workplaces. A body such as a Parliamentary Standards Commissioner also needs to be able to recommend effective sanctions. For elected politicians, these might include a recommendation to the relevant Privileges Committee of disqualification from parliamentary office holding or participation in parliamentary delegations, which are the sanctions applying to Members of the European Parliament who fail to commit to its parliamentary code of conduct.

Of course, the existence of sanctions is no guarantee that they will be used or perhaps even need to be used. Intentional non-compliance with existing integrity measures such as the registers of pecuniary interests is regarded as a contempt of the relevant house of Parliament. However only one MP has been referred to the House of Representatives Privileges Committee for failure to declare an interest, in that case his paid work for a lobby group. It was found not to amount to a contempt after he issued an apology for the ‘administrative error and oversight’. In October 2021 the Speaker recommended a referral to the Privileges Committee of a possible breach by Christian Porter MP of the requirement to declare an interest, but the Speaker was overruled by the Government.

One Senator has been referred to the Senate Privileges Committee, but as in the House of Representatives case, his failure to comply was found to be unintentional. In other instances, a failure to declare an interest was about to be referred to the Senate Privileges Committee but was withdrawn when the Senator involved made an apology.⁸ In the UK, independent reviews for the House of Commons noted that Members of Parliament were reluctant to investigate misconduct by other Members and also that they were not trusted by parliamentary staff to judge ‘one of their own’.⁹

⁸ *Odgers’ Australian Senate Practice*, 14th ed., 2016, p. 180, fn 59.

⁹ Dame Laura Cox, *The Bullying and Harassment of House of Commons Staff: Independent Inquiry Report*, 2018, ¶1378; Gemma White QC, *Bullying and Harassment of MPs’ Parliamentary Staff: Independent Inquiry Report*. House of Commons, 2019, ¶100, ¶140.

While independent complaint-handling bodies with effective sanctions have been established in places such as the House of Commons in the United Kingdom, there are still powerful disincentives for staff to speak out about misbehaviour, including fear of political consequences. For this reason, an independent review in the House of Commons successfully recommended that the complaint-handling body have the power to handle historic cases.¹⁰ Former staffers were seen as more likely to be willing to bring a complaint, which might have a beneficial effect on the behaviour of current parliamentarians. Complaint-handling bodies also need to be able to record everyday incidents of misbehaviour that are reported but do not proceed to a formal complaint. A supplementary means of identifying patterns of misbehaviour is for the complaint-handling body to ensure that regular anonymous surveys of workplace experience are conducted. Disparity between the findings of such surveys and the record of complaints is also an important check on whether there is trust in the complaint-handling mechanism.

THEMES OF THE SPECIAL ISSUE

This special issue offers critical insights into the broader set of questions raised by the recognition of Parliament as a gendered workplace. Above all, it identifies and interrogates the compounding barriers that constrain the performance of women as political representatives and deny them equal opportunity in the parliamentary workplace. While the following articles focus on different areas of inquiry—from political staffers and politicians in the various levels of government in Australia and New Zealand to lessons from a related profession—collectively, they investigate the impact and ramifications of sexism writ large in political and politicised workplaces.

A broad theme of the workshop that resonates throughout this special issue is that of parliamentary spaces being *gendered*. In Australia, the parliamentary workplace encompasses more than the building of Parliament House: any place of work in which parliamentary business is conducted, from electorate offices to rooms in which the Cabinet or parliamentary committees are holding meetings, can be viewed as a site of gendered work. Gendered power relations, hierarchies, norms and practices—particular to the Parliament—operate in all of these workplaces. As Independent MP

¹⁰ White, *Bullying and Harassment of MPs' Parliamentary Staff*.

Helen Haines noted on the first day of the event, ‘the Parliament was set up by men, for men ... and even more so by alpha men’. Following this line of thought, in this issue Chris Wallace examines the sense of entitlement which lies at the heart of the offences against women committed in parliamentary offices, arguing that we desperately need effective measures that will undercut gendered power imbalances and ensure diversity. Wallace exposes the unequal distribution of power that allows workplace misconduct to flourish, especially where authority is concentrated at the top. Offering a perspective from the legal profession, Kieran Pender examines the extent to which the field of law is also a highly gendered space where those committed to positive change must confront numerous instances of inappropriate workplace behaviour. Pender argues that there are tangible lessons and insights to be gained here that could be useful for Parliament, due to the similar power structures and hierarchies shared by the two institutions. Such insights include the need for flexible reporting models that overcome reluctance to report.

While Parliament as an institution has been predominantly occupied by men, Maria Maley notes that administrative and clerical support for Ministers and parliamentarians has historically been provided by women and most employees hired under the *Members of Parliament (Staff) Act* (MOPS Act) are women. Ostensibly, political offices could be considered places in which women can wield power without the level of public scrutiny and criticism faced by women politicians. Yet Maley has discovered that these offices nevertheless remain ‘subject to masculine hierarchies and cultures’, and that the positions of those who work there are often vulnerable and precarious. Drawing on interviews with political staffers, Maley provides an in-depth analysis of the causes of these problematic working conditions, exposing the extent to which they are rife in the political workplace. Touching on the second major theme running through the special issue—the intersection of age and gender—Maley further observes that women staffers are, on average, younger than their male counterparts and are mostly recruited under the age of 30. This, she points out, contributes significantly to the exploitative sexual relationships predominant between senior men and junior women.

Likewise, in their investigation of the experiences shared by women running for local government, Andrea Carson, Gosia Mikolajczak and Leah Ruppner highlight the intersection of age and gender and discover a missing cohort of younger women. Using a mixed-method design that incorporates quantitative survey data as well as qualitative interviews, they enrich our understanding of the role that gender differences play in campaign and election experience. Despite finding that women have a higher election success rate, their study also revealed a ‘leaky pipeline’ and higher rates of burnout, particularly for young women, due to the demands of

managing family responsibilities on top of paid work and local government office holding. The authors point out that at least at the parliamentary level there are full-time salaries, removing the need to juggle paid work and political activity.

Pia Rowe similarly examines the barriers that women must overcome to achieve political participation in Parliament, noting the disproportionate share of caring responsibilities they shoulder. By examining Parliament through a ‘family-friendly’ lens, interviewing women parliamentarians before and during the COVID-19 pandemic, Rowe insists that we need to extend our understanding of care labour as more than the care of infants and toddlers, which has to some extent been addressed by the establishment of a childcare centre in Parliament House. To ensure Parliament can accommodate a modern work and family balance—built on the acceptance of a broader set of care responsibilities—Rowe suggests a more comprehensive assessment is required of parliamentary work practices, cultures and norms.

Throughout the workshop, participants repeatedly named the media as another gendered space in Australian public life. Capturing this sentiment, Carol Johnson and Blair Williams acknowledge that Parliament remains a sexist and discriminatory workplace but argue that this is often exacerbated by the media coverage. Examining media reception and coverage of Julia Gillard’s ‘Misogyny Speech’, the ‘slut-shaming’ of Sarah Hanson-Young, and Julia Banks’ critiques of a parliamentary culture of sexism, Johnson and Williams show how media actors have punished these politicians for their actions by portraying them in a sexist, trivialising, and demeaning manner. Yet they also observe how this trend is changing, with more supportive voices demonstrating the crucial role that journalists and political commentators can play in revealing and critiquing sexist behaviour.

While all papers call for a code of conduct, Kerryn Baker explores the impact that such a code has had in the New Zealand Parliament since its implementation. Baker maps two specific instances of reform that sought to diversify parliamentary culture: the introduction of a mixed-member proportional (MMP) electoral system in the 1990s; and the Francis Review and resulting voluntary code of conduct in 2019. While MMP has succeeded in increasing diversity, neither reform has shifted the sexist hypermasculine norms of parliamentary behaviour. Assessing the New Zealand situation, Baker argues that ‘effectiveness of the code of conduct will be severely limited by its voluntary nature and by the absence of an independent accountability mechanism’. As Baker clearly identifies, a code of conduct is not a sufficient solution to this problem but should be seen as ‘one tool among many’. We need a multifaceted response if we want to truly change our current political culture.

CONCLUSION

Since 2018, allegations of serious misconduct in the corridors of political power have been publicly aired and investigated. These allegations suggest a culture of male entitlement is not only tolerated, but privileged, in Parliament House. More alarmingly, the possibility that any of these allegations were known to the most senior of our political leaders—including the Prime Minister, Scott Morrison—suggests that the culture of male entitlement is normalised in Australia.

This is problematic on two fronts. First, it continues to present Parliament as predominantly a heterosexual masculine domain, making it less likely that women and LGBT Australians will consider nominating as electoral candidates. The Australian Parliament must become a much more attractive workplace if women and others are to consider politics as a worthwhile career. Without a code of conduct that sets out expectations of workplace culture and behaviour, and enables sanctions for any transgressions, the Parliament will fail to achieve the kind of inclusive practices and diverse composition that reflects Australian society and its democratic values.

Second, the acceptance of masculinised norms of entitlement in the political realm reinforces such norms in Australian society. Violent and sexist behaviour in the Parliament legitimises violent and sexist behaviour in society more broadly. As we have seen, the 2020–21 allegations of sexual assault, harassment, bullying and intimidation in Parliament uncovered, for the second time in Australian political history, an underlying culture of sexism and misogyny. Many women politicians are now calling out behaviour they previously thought they had to put up with to be accepted as a ‘team player’ in politics.¹¹

A code of conduct represents an important mechanism by which all individuals—regardless of gender or partisan affiliation—can call out sexism, misogyny and gender-based violence in the parliamentary workplace. It also represents a signal to prospective candidates and voters that the Australian Parliament takes these issues seriously and means to address them substantially.

¹¹ Kate Thwaites and Jenny Macklin, *Enough is Enough*. Clayton: Monash University Publishing, 2021, p. 10.